IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

MARCY A. JOHNSON, individually and on behalf of all others similarly situated,	)
Plaintiff,	)
vs.	) No.______________________________
WEST PUBLISHING CORP., a Minnesota corporation,	) JURY TRIAL DEMANDED
Defendant.	)

CLASS ACTION COMPLAINT

NOW COMES plaintiff Marcy A. Johnson ("Plaintiff"), on behalf of herself and all others similarly situated, by and through her attorneys, and hereby alleges as follows:

INTRODUCTION

1. This class action arises out of improper and unlawful actions by defendant West Publishing Corp. ("Defendant"), who obtained, acquired, disclosed, sold, and/or disseminated Plaintiff's and putative Class members' personal information or highly restricted personal information for commercial purposes and profit, as prohibited by law.

2. The members of the proposed Plaintiff Class are licensed drivers in the States of Alabama, Alaska, Colorado, Connecticut, Florida, Idaho, Illinois, Iowa, Kentucky, Louisiana, Main, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Tennessee, Texas, Utah, Wisconsin, Wyoming and the District of Columbia (the "States"). The personal information or highly restricted personal information pertaining to Plaintiff and putative Class members was maintained by administrative agencies of the States.

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3. The acts of Defendant, as described more particularly below, were in violation of the law, specifically the Federal Driver's Privacy Protection Act, 18 U.S.C. §§ 2721, *et seq.* ("DPPA").

PARTIES

4. Plaintiff Marcy Johnson is an individual residing in Cole County, Missouri, and is a licensed and registered driver in the state of Missouri. Plaintiff Johnson's name, address, VIN number, vehicle type, make, model, and body style of her car, and license plate number are in the motor vehicle record obtained, disclosed, and sold by Defendant.

5. Defendant West Publishing Corp. is a Minnesota corporation with its headquarters in Eagan, Minnesota.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, in that this action arises under statutes of the United States, specifically the Driver's Privacy Protection Act, 18 U.S.C. §§ 2721, *et seq*. The DPPA specifically authorizes the Court to exercise jurisdiction. The Court has supplemental jurisdiction over the claims set forth in Counts II and III pursuant to 28 U.S.C.A. §1367. Furthermore, the Court has subject matter jurisdiction over this nationwide class action pursuant to 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005, because the matter in controversy exceeds $5,000,000.00, exclusive of interest and costs, includes more than 100 Class members, and is a class action in which at least one of the Class members is a citizen of a different state than Defendant. *See* 28 U.S.C. § 1332(d)(2)(A). The Court also has personal jurisdiction over Defendant because it is authorized to do business and in fact does business in this State, and Defendant has sufficient minimum contacts with this State and otherwise intentionally

avails itself of the markets in this State through the promotion, marketing, and sale of its products and services in this State, to render the exercise of jurisdiction by the Court permissible.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391. A substantial part of the acts, events, or omissions giving rise to the claim occurred in this judicial district, as Defendant conducts substantial business in this District. Additionally, Plaintiff is a resident of this judicial district.

GENERAL ALLEGATIONS

8. Defendant West Publishing Corp. is a corporation specializing in legal publishing, online information delivery, and various other legal information products.

9. Defendant has obtained and continues to obtain a large database(s) of motor vehicle records, and the corresponding personal information or highly restricted personal information for each such record, on information and belief, directly from each of the States, or from entities who acquired it from the States, in violation of the DPPA.

10. Upon information and belief, the information collected from the States was collected under the pretense that the information would be used only for the legitimate purposes outlined in 18 U.S.C. § 2725(3).

11. The information database(s) obtained by Defendant from the States contained "personal information" and/or "highly restricted personal information" (as defined by the DPPA, 18 U.S.C. §§ 2721, *et seq.*), belonging to millions of licensed drivers.

12. Defendant then made the unlawfully obtained information belonging to Plaintiff and the putative Class members available for search and sale on the Internet via websites controlled and operated by Defendant.

13. The personal information or highly restricted personal information of Plaintiff and the putative Class members was obtained and disseminated by Defendant for purposes not permitted under the DPPA.

14. Plaintiff has suffered damages as a result of Defendant's conduct.

CLASS ACTION ALLEGATIONS

15. This action is properly brought as a class action pursuant to Fed. R. Civ. P. 23. Plaintiff brings this individually, and on behalf of all others similarly situated, as representatives of the following class:

> All individuals with a motor vehicle registration on file in the States of Alabama, Alaska, Colorado, Connecticut, Florida, Idaho, Illinois, Iowa, Kentucky, Louisiana, Main, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Tennessee, Texas, Utah, Wisconsin, Wyoming and the District of Columbia, whose personal information or highly restricted personal information, as defined by 18 U.S.C. §§ 2725(3) and (4), was obtained, disclosed, or sold by Defendant, or any agent, officer, employee, or contractor of Defendant (the "Class"). The Class excludes Defendant's directors, officers, parent corporations, subsidiaries, and affiliates.

16. The members of the Class are identifiable from the information and records in the possession or control of Defendant and/or the various States identified in the Class definition and relevant agencies of those States.

17. The Class members are so numerous that individual joinder of all members is impractical. This allegation is based upon information and belief that Defendant obtained and disclosed the personal information or highly restricted personal information of millions of licensed drivers from the States.

18. There are questions of law and fact common to the Class that predominate over any questions affecting only individual members of the Class, and, in fact, the wrongs suffered and remedies sought by Plaintiff and the other members of the Class are premised upon an

unlawful scheme participated in by Defendant. The principal common issues include, but are not limited to, the following:

a. The nature and extent of Defendant's business model of obtaining and disclosing the personal information or highly restricted personal information of the licensed drivers of the Class;

b. Whether the actions taken by Defendant in obtaining and disclosing the personal information or highly restricted personal information of licensed drivers of the Class violated the DPPA;

c. Whether Defendant unlawfully obtained, disclosed, or sold personal information or highly restricted personal information from the motor vehicle records of Plaintiff and Class members, in violation of the DPPA;

d. Whether Defendant, in obtaining, disclosing, and selling the personal information or highly restricted personal information of Plaintiff and Class members for profit, violated the DPPA;

e. Whether Defendant should be enjoined from violating the DPPA in the future;

f. The nature and extent to which the personal information or highly restricted personal information belonging to Plaintiff and Class members was unlawfully obtained, disclosed, or sold;

g. The nature and extent of Plaintiff's and the putative Class members' actual damages;

h. The nature and extent of all statutory penalties or damages for which Defendant is liable to Plaintiff and Class members; and

i. Whether punitive damages are appropriate.

19. Plaintiff's claims are typical of those of the Class and are based on the same legal and factual theories.

20. Plaintiff will fairly and adequately represent and protect the interests of the Class. Plaintiff has suffered damages in her own capacity from the practices complained of, in that her personal information or highly restricted personal information has been unlawfully obtained, disclosed, and sold for a profit, and is ready, willing and able to serve as a Class representative.

21. Plaintiff's counsel are experienced in handling class actions and actions involving unlawful commercial practices. Neither Plaintiff nor her counsel have any interest that might cause them not to vigorously pursue this action.

22. Certification of a class under Fed. R. Civ. P. 23 and is appropriate because Plaintiff and the putative Class members seek monetary damages, common questions predominate over any individual questions, and a class action is superior for the fair and efficient adjudication of this controversy.

23. A class action will cause an orderly and expeditious administration of Class members' claims and economies of time, effort and expense will be fostered, and uniformity of decisions will be ensured. Individual Class members are unlikely to be aware of their rights and are not likely to be in a position (either through experience or financially) to commence individual litigation against Defendant.

24. Alternatively, certification of a class is appropriate in that inconsistent or varying adjudications with respect to individual members of the Class would establish incompatible standards of conduct for Defendant, or adjudications with respect to individual members of the Class as a practical matter would be dispositive of the interests of the other members who

are not parties to the adjudications or would substantially impair or impede their ability to protect their interests.

25. Defendant's conduct, as complained of herein, is generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

COUNT I

(Violation of the DPPA)

26. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

27. The DPPA, 18 U.S.C. § 2722(a), prohibits any organization or entity from knowingly obtaining or disclosing personal information or highly restricted personal information contained in motor vehicle records for any purpose not specifically enumerated under §2721(b) of the DPPA.

28. The DPPA, 18 U.S.C. § 2722(b), prohibits any organization or entity from making any false representation to obtain any personal information or highly restricted personal information from an individual's motor vehicle record.

29. Defendant knowingly obtained, disclosed, and/or sold Plaintiff's and the putative Class members' personal information or highly restricted personal information, as defined by the DPPA, for a use or uses not permitted under the statute.

30. Upon information and belief, Defendant made false representations to the States to obtain Plaintiff's and the putative Class members' personal information or highly restricted personal information, and at other times obtained Plaintiff's and the putative Class members' personal information or highly restricted personal information from third parties.

31. Plaintiff and the putative Class members have suffered damages, as alleged herein, and pursuant to 18 U.S.C. § 2724(b)(1), are entitled to actual damages, but not less than liquidated damages in the amount of $2,500 each.

COUNT II

(Unjust Enrichment)

32. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

33. As set forth herein, Defendant unlawfully obtained or acquired and then disclosed or sold personal information or highly restricted personal information pertaining to Plaintiff and Class members.

34. Accordingly, Defendant has been unjustly enriched in that it received and retained the benefits of the proceeds from the sale of personal information or highly restricted personal information that it would not have received but for its misconduct as alleged herein.

35. Said benefits were unlawfully obtained to the detriment of Plaintiff and Class members, whose personal information or highly restricted personal information is of value to them as personal property.

36. Allowing Defendant to retain the aforementioned benefits violates fundamental principles of justice, equity, and good conscience.

37. Plaintiff and the Class are entitled to and hereby seek disgorgement and restitution of the benefits obtained by Defendant through its unlawful conduct.

COUNT III

(Injunctive Relief)

38. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

39. Defendant knew, or should have known, that the actions set forth above violated the provisions of the DPPA.

40. The wrongful conduct alleged in this Complaint occurs and continues to occur in the ordinary course of Defendant's business.

41. Defendant should be enjoined and restrained from continuing to engage in such conduct, or other conduct having similar purpose and effect, but specifically from obtaining, disclosing, or selling personal information or highly restricted personal information pertaining to Plaintiff and Class members, or any other individuals in the future, in violation of the DPPA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, respectfully prays for judgment against Defendant as follows:

A. For an order certifying that this action may be maintained as a class action under Fed. R. Civ. P. 23(a) and (b)(1)(a), (b)(2), and (b)(3), and appointing Plaintiff and her counsel to represent the Class;

B. For a declaration that Defendant's actions violated the Federal Driver's Privacy Protection Act;

C. For all actual damages, statutory damages, penalties, and remedies available as a result of Defendant's violations of the DPPA, but not less than liquidated damages in the amount of $2,500 for each Plaintiff and each member of the Class;

D. For a declaration that Defendant, through its actions and misconduct as alleged herein, has been unjustly enriched, and an order that Defendant disgorge such unlawfully obtained gains and proceeds;

E. For an order enjoining Defendant from obtaining, disclosing, or selling Plaintiff's and the putative Class members', or any other individuals' in the future, personal information or highly restricted personal information in violation of the DPPA;

F. For an award to Plaintiff and the Class of their costs and expenses of this litigation;

G. For an award to Plaintiff and the Class for their reasonable attorneys' fees; and

H. For such other relief as the Court may deem just and reasonable.

Respectfully Submitted,

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